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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MURTHI NANJA

Appeal 2006-3300
Application 09/778,565
Technology Center 2100

Decided: January 8, 2008

Before MAHSHID D. SAADAT, ALLEN R. MACDONALD, and JOHN A. JEFFEREY, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-8, 12-19, and 23-25, which are all of the claims pending in this application as claims 9-11 and 20-22 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

Appellant has invented a method and an apparatus for aggregating on a local system data from various web servers (Specification 6) and forwarding the aggregated data to a wireless device in a single connection session (Specification 7-9).

Claim 1, which is representative of the claims on appeal, reads as follows:

1. A method comprising:

aggregating information from two or more web sites on a client;

detecting the occurrence of a predetermined time; and

automatically transferring information to a wireless device at the predetermined time, from said two or more web sites in a single connection session.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Ohashi	US 6,172,699 B1	Jan. 9, 2001
Khan	US 6,438,575 B1	Aug. 20, 2002
		(filed effectively Jun. 7, 2000)

The Examiner rejected claims 1-8, 12-19, and 23-25 under 35 U.S.C. § 103(a) based upon the teachings of Khan and Ohashi.

We affirm.

ISSUE

The issue is whether Appellant has shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 103. Appellant argues that the combination is improper since Kahn does not transfer multiple Web pages at a predetermined time in a single connection session (Br. 10) while Ohashi merely transfers multiple pages of image data in one communication session without explaining its benefits (Reply Br. 2). Additionally, Appellant argues that Kahn does not aggregate the Web pages in a client and instead, does so in a server (Br. 10, Reply Br. 1). Therefore, the issue turns on whether there is a legally sufficient justification for combining the disclosures of Kahn and Ohashi and if so, whether the combination of these references teaches the claimed subject matter related to aggregating information from Web pages on a client and transferring the information in a single connection session.

FINDINGS OF FACT

The following findings of fact (FF) are relevant to the issue involved in the appeal and are supported by a preponderance of the evidence.

1. Appellant's Figure 1 shows the client as the system 103 which may be any processor based system which acts as an intermediary or an "information hub" for the wireless devices 101 and provides aggregated web information to each wireless device (Specification 5:1-11).

2. Kahn relates to selecting and formatting web content for remote viewing. User-defined information is received and used to retrieve content from one or more web sites which is aggregated and formatted at a network

server for display on a wireless device. The formatted content is transmitted to a wireless device for display on the wireless device (Abstract).

3. Kahn further discloses that the content is aggregated on a portal page unique to the user, which displays the content that the user has specified and can include the interface that allows the user to specify the information. This portal page is fully customizable by the user and can be accessed by any device, whether wireless or hardwired. As an option other than a real time aggregation, the retrieved content can be updated after a predetermined amount of time has expired. The content would then be retrieved, formatted, and transmitted to the wireless device (col. 2, ll. 39-48; col. 10, ll. 27-59; col. 11, ll. 9-22; Figure 2).

4. Figure 3 of Kahn shows a portable wireless device 302 in connection with a host computer system 304 which, in turn, is connected to remote sources of data information on the Internet 306 (col. 11, ll. 37-41). Kahn discloses that the host computer system includes a peripheral interface adapter that provides for the bi-directional transfer of the data via an interconnect line 308 to an external transceiver 310 that supports wireless communications with one or more wireless devices (col. 11, ll. 42-46).

5. Ohashi relates to a thermal printing unit wherein a data packet of the printing data is sent to and stored in the printer to be used for printing when a controller determines the temperature of the printing head to be within a set range (Abstract).

6. Ohashi controls the multi-receiving function, wherein a plurality of pages of image data is received in one communication

connection session (col. 7, ll. 55-59), so that the temperature of the printing head can be maintained within a range suitable for proper printing (col. 7, l. 59 through col. 8, l. 3).

PRINCIPLES OF LAW

To reach a conclusion of obviousness under § 103, the Examiner bears the burden of producing factual basis supported by teaching in a prior art reference or shown to be common knowledge of unquestionable demonstration. Our reviewing court requires this evidence in order to establish a *prima facie* case. *In re Piasecki*, 745 F.2d 1468, 1471-72 (Fed. Cir. 1984).

Furthermore, the test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. *See In re Kahn*, 441 F.3d 977, 987-88 (Fed. Cir. 2006), *In re Young*, 927 F.2d 588, 591 (Fed. Cir. 1991) and *In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’” *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1734 (2007).

“The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”

Leapfrog Enter., Inc. v. Fisher-Price, Inc., 485 F.3d 1157, 1161 (Fed. Cir. 2007) (quoting *KSR*, 127 S. Ct. at 1739). “One of the ways in which a patent's subject matter can be proved obvious is by noting that there existed at the time of invention a known problem for which there was an obvious solution encompassed by the patent's claims.” *KSR*, 127 S. Ct. at 1742.

ANALYSIS

The Examiner characterizes the host computer system 304 of Kahn as the claimed client wherein the information data from one or more web sites are aggregated (Answer 7-8). The Examiner further finds Kahn's network server to be the same as Appellant's processor-based system 103, depicted in Appellant's Figure 1, where data is aggregated before transferring to the wireless devices 101 (*id.*).

Appellant argues that the network server of Kahn is not a client associated with the wireless device and relies on the disclosed description of such client on page 11 of the Specification (Br. 10). Appellant further asserts that the claimed client cannot merely be any processor-based system and therefore, the Examiner's position is erroneous (Reply Br. 1).

We disagree with Appellant that the host computer system 304 of Kahn is not a client and is different from the client disclosed in the Specification. Although Kahn does not call the system 304 a client, it performs all the functions of a client described in Appellant's Specification such as aggregating the information from websites requested by the wireless device and transferring the aggregated information to the wireless device

(FF 1-4). Additionally, the claims do not require any specific association between the client and the wireless device, as argued by Appellant, and merely define the client by the functions of aggregating and transferring data.

We also note that Kahn provides for the option of updating the retrieved data after passing a predetermined time when the data is retrieved, formatted, and transmitted to the wireless device (FF 3). The aggregated information is then transmitted to the wireless device via an interconnect line 308 and an external transceiver 310 (FF 4). In that regard, the fact that the data transfer is not performed in real time supports the Examiner's rationale for looking into Ohashi for single connection data transfer.

Therefore, contrary to Appellant's assertion that Kahn teaches away because Kahn presents data to the wireless device as they develop (Br. 10), Kahn does not teach away from transferring data in a single connection session since the data aggregation in Kahn is not done in real time. In fact, Kahn allows for user interaction with the content in a different embodiment that relates to the real time data aggregation and is different from updating the content after a predetermined time and transferring the content after it is aggregated.

We also disagree with Appellant that the Examiner's proposed combination of the references is void of any reason or rationale (Br. 11) and find that Ohashi's multi-receiving function and control of the duration of printer data transfer, or printing strobe time-width, for controlling the printer head temperature (FF 6) suggests transferring data in a single connection

session. Ohashi sends the print data in one communication connection session, a multi-receiving function, in order to allow the printer head to achieve and maintain a preset temperature and be ready for printing the pages included in the image data (FF 6). In other words, transferring the print data in a single connection session in Ohashi provides an obvious solution to one of ordinary skill in the art to combine the references for controlling the performance of the receiving devices such as the wireless devices in Kahn that are to receive the aggregated web information data. *See KSR, supra.*

CONCLUSION

Because Appellant has failed to point to any error in the Examiner's position, we sustain the § 103 rejection of claim 1 and also with respect to claims 2-8, 12-19, and 23-25, which are argued together and fall with claim 1 (Br. 10-11). Therefore, we sustain the 35 U.S.C. § 103 rejection of claims 1-8, 12-19, and 23-25 over Kahn and Ohashi.

DECISION

The decision of the Examiner rejecting claims 1-8, 12-19, and 23-25 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2006-3300
Application 09/778,565

AFFIRMED

KIS

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